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Supreme Court, U.S.
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JUN 8 - 2005
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No. 04-1211

In The

Supreme Court of the United States

HILDA LEAH FLOYD
(mother of minor child) E.C.,

Petitioner,

v.

STATE OF MARYLAND,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fourth Circuit

PETITION FOR REHEARING

HILDA LEAH FLOYD
160 Alberge Lane
Baltimore, MD 21220
410-335-0191

QUESTION PRESENTED

1. Who really has the power to waiver a child before he has been charged?
2. Should the state follow the same guidelines as the federal?
3. Does a child first have to be emancipated?
4. At what age does society put a child in front of a judge and say defend yourself?
5. What are you telling society about the law?
6. At what point do we draw the line on juvenile?
7. Is it about time we clear this matter up?
8. When I had asked for the transcripts from this case, they for some fact have been omitted or changed; this is not the first time. How true is a transcript supposed to be? I want his juvenile record read.
9. My child was on probation but in my custody, and Master Gilbert was not told of this case. Should he have been notified first?
10. If my child was an adult, he would have been arraigned much faster than this. Was the court confused?
11. January thru June my son was prosecuted every month. Could this fall under Vigorous Prosecution or Obstruction of Justice or both?
12. Do I have the right to challenge Mr. Bass' accusations and face our Accuser?

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Mr. Steven M. Sullivan, Assistant Attorney General
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Public Defender – Jerri Peyton-Braden
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Towson, MD 21204
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STATEMENT OF THE CASE

On June 26, 2001, around 12 a.m., the police came to my apartment to question my 15-year-old son Emmanuel Seth Covington, stating that a drive-by shooting had just occurred around 11:05 p.m. No arrest was made that night.

Around June 28, I was denied the right to file a counter charge against Mr. Bass to see what he based his charges on.

On June 29, 2001, at about 12 a.m., Emmanuel Seth Covington was taken into custody from my house by Detective Hanna of the 11th precinct. She had told me, "that he was being charged as an adult." Detective Hanna and two other detectives had stayed behind to search my house, with half the police force waiting outside. I had an 18 month and 2½ year old, my grandchildren, in the house. I just went on and gave her permission. She had admitted that she did not have a search or arrest warrant; she claimed it will take too long to wake a judge. I gave her permission, and the search was limited to my child's room. ***Zucher v. The Stanford Daily*, 436 U.S. 547, which deals with search and seizure, and a third party. The apartment is in my name, not my son's, even though I was an innocent third party. I should have been given a subpoena, and the child should have been arrested outside the premises. That would make the search illegal. Or on the other hand, if the child was charged as a Juvenile and I had complete control and rights over my child, then the search would have been legal.** Around 4:45 a.m., Detective Hanna left with the K-9 unit. I followed the detective back to the station arriving about 4:55 a.m. I

was told by Detective Hanna once again that Emmanuel had been locked up with adults and charged as an adult, and that I could not see him. While in police control, Emmanuel somehow had signed a *Miranda* Waiver without my presence. **(FRUIT-OF-THE-POISONOUS-TREE DOCTRINE; *In re Gault*).** Emmanuel was taken to the commissioner, processed and treated as an adult. **(*In re Gault*, 387 U.S. 1 (1967), page 1-1; 2-2-3-4); *Miranda v. Arizona*, 384 U.S. 436, 466 (1966).**

On July 2, 2001, he went for a bail hearing. I was present. He was lead in and chained to other adult prisoners. By now my child had spent the weekend in the same cell with adults. Bail was denied . . .

Emmanuel was transferred to the Detention Center located in Towson, from the 11th precinct, then DOC in Baltimore City. Now he is at MCTC, an all adult facility. His treatment while in the detention center: he was locked down, denied visitation several times, sometimes as long as 7 days to 21 days because he was a Juvenile. **(USCA Code Annotated Crimes and Criminal Procedure *18-5039. No Juvenile committed, whether pursuant to an adjudication of delinquency or conviction for an offense, to the custody of the Attorney General may not be placed or retained in an Adult Jail or correctional Institution.)**

On July 12, 2001, Emmanuel was to appear in Juvenile Court (he was on probation). He was a no show. Master Gilbert was not told of his arrest until that day. Master Gilbert had asked about Emmanuel being arraigned and charged, and had asked why he wasn't told and shook his head when he found out that Emmanuel had not been arraigned. **(Master Gilbert should have been the first**

one notified, and he should have appeared in front of him instead of an Adult court).

Around mid-July '01, a grand jury had taken place. I was not notified.

On August 1, 2001, Arraignment was held in front of Hon. John G. Turnbull II. I was not notified nor was any lawyer. My son was told that he better hire a lawyer. **(*In re Gault* pages 39-41 "rights to be represented by counsel. . . .)** And yet no one had noticed that the child was not being represented by counsel or his parent to avoid the following: **Black's Law Dictionary Revised, Fourth Edition, Definition, Incriminated, *In re Dendy*, Tex.Civ.App.**

Attorney Jerri Peyton-Braden's appearance was entered on September 13, 2001 (I was turned down by the Public Defender's office from obtaining an attorney. They claimed I had no rights, the child was an adult.) In July, my child was permitted to hire sign for a public defender in September. **(Contract law, hiring or obtaining lawyers is a contract, child could not enter any.)**

On January 9, 2003, Trial: Hon. Robert N. Dugan, and Trial Sentence. That was when Attorney Jerri Peyton-Braden told my son "your mother said to take the plea bargain under the Alford plea." I was not allowed to be in the room nor talk to my child. *I said jury trial.* **(Since when could a lawyer lie to their clients?)**

REASONS FOR GRANTING THE PETITION

The reasons for Granting this petition for rehearing are as follow: Emmanuel needs a second consideration of cause for sole purpose of calling to the court's attention any ***oversight*** in this case would be the facts that I have just mentioned. **Black's definition of *Rehearing*. *Lake v. State*, 100 Fla. 373, 129 So. 827, 829. *Omission*** would be the neglect from the lawyer and judges to perform what the law requires. He also has the right to have those facts brought out in court without prejudice or trickery and also has the right to be treated like the other two boys cleared of all charges and his record expunged. **Due Process (Fifth and Sixth Amendment; Civil Rights Act of 1964.)**

Three children were placed into custody that night, one Japanese, one white. Case No: 01J3156, both 16 year olds were turned free due to lack of evidence.

The white child was placed that night in a cell by himself. He was granted bail. His case was later bought down to Juvenile court where he was released with not guilty for lack of evidence. He was the only witness against my son; he later admitted he was lying. **Black's Dictionary definition of EQUAL BY SEPARATION LAW; EQUAL PROTECTION OF THE LAWS, *State v. Montgomery*, 94 Me. 192, 47 A. 165. (EMANCIPATION – *Wallace v. Cox*, 136 Tenn. 69, 188 S.W. 611, 612, L.R.A. 1918B, 690).**

No one was hurt, no gun was found, and the boys were miles away at one of the child's homes. Two bullets were found, one in the woodwork in front of the garage and the other inside across the garage in a sack of grass seeds. One shell was found in the neighbor's driveway which

could have been there God knows when. He should have never been charged with attempted murder. Description: Facing the area; the neighbor's driveway, then a row of tall trees that start at a few feet from the street which lead straight back to the garage blocking all view of the garage (100 yards from the street). The detached garage faces the street and to the right is a big above-ground pool that sits between the garage and the house. The length of the house from the back to the front is large, then the rest is all front yard. The driveway is narrow, and the garage had a pool table in it so the car had to park outside. A .380 caliber gun was used. This is a gun that is half the size of a .45, a little larger than a .22. The range is 10 yards, meaning you have to be very close to your target. How, while the car was moving did several bullets travel 100 yards while missing the house, the pool, the parked cars, the pool table and the trees? Officer Hanna measured only the length between the neighbor's driveway to the house. **(False and Misleading Statement, *Securities and Exchange Commission v. Okin*, C.C.A.N.Y., 132).**

Another reason due to the recent Supreme Court Ruling: **recent *Miranda* Decision; over the children and their limits of understanding the law, reasonable doubt and false imprisonment, *People v. Harkans*, 109 Colo. 177, 123 P.2d 824; Imprisonment, *State v. Shaw*, 73 Vt. 149, 50 A. 863; No Discovery, if he was an adult he would have that right, False arrest, *Gariety v. Fleming*, 121 Kan. 42, 245 P. 1054, 1055; *Russel v. Levinsohn*, 5 N.J. Misc. 765, 138 A. 205; *Parens Patriae, In re Gault* and *In re Winship*, 358 U.S. 397 (1969) page 374. "A delinquency determination, to some extent at least, stigmatizes a youth in that it is by definition bottomed on a finding that**

the accused committed a crime . . . it is far worse to declare an innocent youth a delinquent . . . Page 378; Our Constitution provides that no person shall be "deprived of life, liberty, or property, without due process of law"; *Connecticut v. Michael Skakel*, Part A. the Juvenile Section: but reverse (juvenile to adult) here adult was placed in juvenile over a 20 or more case. . . . In this case the Prosecutor had full control over this child. The court had acted as *parens patriae* **(Scottsboro Case, *Powell v. Alabama*, 287 U.S. 45 (1932); Scottsboro Case, *Norris v. Alabama*, 294 U.S. 587 (1935),** this case is identical. If Emmanuel was an adult, he would not be treated this way, he would be guaranteed due process. **(*In re Gault*, page 4, 1 para.)**

CONCLUSION

***U.S. v. Lee*, 106 U.S. 196: No man in the country is so high that he or she is above the law. No officer of the law may set that law at defiance, with impunity. All the Officers of the Government, from the highest to the lowest, are creatures of the law and are bound to obey it.** When a child is born, who do they rely on for food, shelter, clothing, thinking? A child's understanding is very limited and we as adults, parents should be in front. If my child breaks your window, who do you sue? Children have no rights, then who bears that burden? I was treated as the child, my son was treated as the parent. Make my child whole.

The petition for a rehearing of writ of certiorari should granted.

Respectfully submitted,

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CERTIFICATION

I hereby certify that this Petition for Rehearing is submitted in good faith and not for delay. This Petition for Rehearing is restricted to the grounds set out in Rule 44.2.

_____
Hilda Leah Floyd